

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BARE ESCENTUALS BEAUTY, INC.,

No. C-07-1669 MMC

Plaintiff,

**ORDER DENYING IN PART PLAINTIFF'S
MOTION TO SEAL; DIRECTIONS TO
PLAINTIFF**

v.

L'OREAL USA, INC., et al.,

Defendants.

_____ /

On April 15, 2008, the Court deferred ruling, in part, on plaintiff's "Motion to File Papers Under Seal," specifically, with respect to Exhibit K to the Declaration of Joseph M. Morris in Support of Plaintiff Bare Escentuals' Opposition to L'Oréal S.A.'s Motion to Dismiss for Lack of Personal Jurisdiction ("Morris Declaration"), which Exhibit was designated as "highly confidential" by defendants. (See Order Granting in Part, Denying in Part, and Deferring in Part Plaintiff's Motion to Seal at 2:17-21.) The Court observed that portions of Exhibit K were plainly not confidential, and afforded defendants the opportunity to file a supplemental declaration identifying with particularity the portions thereof that defendants claim are subject to sealing and the reason(s) therefor.¹ (See id.)

On April 16, 2008, defendants filed the Supplemental Declaration of Jose Monteiro,


¹ The Declaration of Jose Monteiro, submitted by defendants pursuant to Civil Local Rule 79-5(d) in support of their designation of Exhibit K, among other Exhibits, as "confidential" or "highly confidential," failed to specify those portions of Exhibit K that defendants sought to have filed under seal.

1 in which defendants request “the identities of the travelers contained within Exhibit K” be
2 filed under seal for the asserted reason that “this specific information contains extremely
3 sensitive personal, operations [sic] and strategic information constituting research,
4 development and trade secret information.” (See Supp. Monteiro Decl. at 1:19-22.) Other
5 than such general assertion, which closely resembles the assertion offered in the initial
6 declaration submitted by defendants, (see Monteiro Decl. at 1:12-13 (stating designated
7 exhibits, including Exhibit K, contain “extremely sensitive personal, operational and
8 strategic information”)), defendants fail to provide any explanation as to how the “travelers’
9 identities,” (see Supp. Monteiro Decl. at 1:23), constitute trade secret or otherwise sealable
10 information, see Civil L.R. 79-5(a) (providing request to seal must “establish[] that the
11 document, or portions thereof, is privileged or protectable as a trade secret or otherwise
12 entitled to protection under the law”).

13 Accordingly, to the extent plaintiff seeks to file under seal Exhibit K, the motion to
14 seal is hereby DENIED, for the reason that neither defendants’ initial nor supplemental
15 declaration substantiates the filing of such exhibit under seal. Plaintiff is hereby
16 DIRECTED to file in the public record, no later than April 21, 2008, Exhibit K to the Morris
17 Declaration. If plaintiff fails to timely file such exhibit in the public record, the Court will not
18 consider it in ruling on defendant L’Oréal S.A.’s motion to dismiss.

19 **IT IS SO ORDERED.**

20 Dated: April 17, 2008

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23 MAKINE M. CHESNEY
24 United States District Judge
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